In the High Court of Punjab and Haryana, Chandigarh.

CWP No. 18235 of 2005

Date of Decision: 9.11.2006

Sukhdev Singh

....Petitioner

Versus

State of Punjab and others.

....Respondents.

Coram:- Hon'ble Mr.Justice J.S. Khehar.
Hon'ble Mr. Justice S.D. Anand.

Present: Mr. H.S. Mann, Advocate for
Mr. Gaurav Mohunta, Advocate
for the petitioner.

Mr. Ashok Aggarwal, Addl. A.G., Punjab and
Mr. B.S. Chahal, AAG, Punjab
for the respondents.

...

J.S. Khehar, J. (Oral).

The petitioner was inducted into the service of the Punjab Police Department as Constable on 11.8.1981. On 27.3.1991, the name of the petitioner was placed in promotion list C-II. Under Rule 13.8 of the Punjab Police Rules, 1934 (hereinafter referred to as the 1934 Rules), the petitioner was further promoted to the rank of Head Constable on adhoc basis.

On 15.10.2004, a show cause notice was issued to the petitioner, informing him the tentative determination at the hands of the respondents for withdrawal of his name from promotion list C-II, and thereupon, his reversion to the rank of Constable. The reason emerging

from the pleadings filed on behalf of the respondents for removing the name of the petitioner from promotion list C-II is, that his one year's service was forfeited with permanent effect, vide order dated 7.9.1996. In taking the aforesaid action against the petitioner, the respondents have relied on Rule 13.8A of the 1934 Rules. Rule 13.8A of the 1934 Rules, is being extracted hereunder:-

> "13.8A. Disqualification for admission to or retention in Lists A, B or C.--(1) The infliction of any major punishment shall be a bar to admission to or retention in lists A,B, or C, provided that (a) for special reasons to be recorded by the Superintendent in each case, and subject to confirmation by the Deputy Inspector-General, this disqualification may be waived and (b) after six months' continuous good conduct in the case of censure or confinement to quarters or on expiry of the period of reduction in the case of reduction for a specified period, a constable may be re-admitted at the discretion of the Superintendent."

A perusal of the aforesaid rule reveals, that infliction of a major punishment "shall be a bar... to retention in lists A, B or C". It is, therefore apparent, that the removal of the name of the petitioner from promotion list C-II, is necessarily consequential on the infliction of a major punishment on him. Since the major punishment inflicted on the petitioner, namely, forfeiture of one year's service is not subject matter of challenge, the removal of the petitioner's name from promotion list C-II, was clearly the natural effect of Rule 13.8A, extracted above.

Despite our aforestated conclusion on the proposition of law

canvassed on behalf of the respondents, it is the vehement contention of the learned counsel for the petitioner, that it is too harsh for the respondents to have removed the name of the petitioner from promotion list C-II after the lapse of almost a decade. In this behalf, it is the vehement contention of the learned counsel for the petitioner, that the punishment, under reference, was inflicted on the petitioner on 7.9.1996, and if any action had to be taken against the petitioner, it ought to have been taken soon after the aforesaid punishment was inflicted on him, and not after a period of ten years, specially when the petitioner has earned good reports in the interregnum.

It would have been open for us to examine the contention of the learned counsel for the petitioner, but for the mandate of Rule 13.8A of 1934 Rules, which does not leave any discretion with the authorities. A lenient view is permissible after six months' good conduct, but only in cases, where the punishment of censure or confinement to quarters or an expiry of the period of reduction in the case of reduction for a specified period, is imposed on a member of the service. Since the petitioner was not inflicted any of the punishments, envisaged by Rule 13.8A, wherein, a lenient view can be taken, it is not possible for us to accept the instant contention of the learned counsel for the petitioner.

For the reasons recorded above, we find no merit in this petition, and the same is, accordingly, dismissed.

(J.S. Khehar)
Judge.

(S.D. Anand)
Judge.

9.11.2006
sk.